

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

SECOND REGULAR SESSION-2002

Legislative Document

No. 2212

H.P. 1724

House of Representatives, April 1, 2002

An Act to Create the Maine Rural Development Authority.

Reported by Representative RICHARDSON for the Joint Standing Committee on Business and Economic Development pursuant to Joint Order 2001, H.P. 1610.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 5 MRSA §12004-F, sub-§18** is enacted to read:

6 18. Maine Rural Expenses 5 MRSA
Development Authority Only §13120-A

8 **Sec. 2. 5 MRSA §13058, sub-§6, ¶¶E and F,** as enacted by PL
10 1987, c. 534, Pt. A, §§17 and 19, are amended to read:

12 E. A foreign trade zone program; and

14 F. The Business Assistance Referral and Facilitation
Program, pursuant to section 13063~~+~~and.

16 **Sec. 3. 5 MRSA §13058, sub-§6, ¶G,** as enacted by PL 1987, c.
18 534, Pt. A, §§17 and 19, is repealed.

20 **Sec. 4. 5 MRSA §13072, sub-§6,** as enacted by PL 1987, c. 534,
Pt. A, §§17 and 19, is repealed.

22 **Sec. 5. 5 MRSA c. 383, sub-c. III, art. 2,** as amended, is repealed.

24 **Sec. 6. 5 MRSA c. 383, sub-c. IX** is enacted to read:

26 **SUBCHAPTER IX**

28 **MAINE RURAL DEVELOPMENT AUTHORITY**

30 **§13120-A. Authority established; purpose**

32 The Maine Rural Development Authority, as established by
34 section 12004-F, subsection 18 and referred to in this subchapter
as the "authority," is a body both corporate and politic and a
36 public instrumentality of the State established for the purpose
of providing loans to communities for the development of
38 commercial facilities on a speculative basis and for serving as
lead investor in the acquisition, development, redevelopment and
40 sale of commercial facilities in areas where economic needs are
not supported by private investment.

42 The purposes of this subchapter are public and the authority
44 is performing a governmental function in carrying out this
subchapter.

46 **§13120-B. Definitions**

48 As used in this subchapter, unless the context otherwise
50 indicates, the following terms have the following meanings.

2 1. Carrying costs. "Carrying costs" means reasonable costs
3 incurred for the maintenance, protection and security of a
4 community industrial building prior to occupancy, including, but
5 not limited to, insurance, taxes and interest.

6 2. Board of trustees. "Board of trustees" means the Maine
7 Rural Development Authority Board of Trustees.

8
9 3. Commercial. "Commercial" means related to or connected
10 with the furtherance of a profit-making enterprise.

11 3. Commercial facility. "Commercial facility" means real
12 estate and improvements used principally for commercial purposes
13 or suitable for commercial use. The term commercial facilities
14 includes, but is not limited to:

15 A. Offices and office buildings;

16 B. Manufacturing, processing, assembly and other industrial
17 buildings and related improvements;

18 C. Property used in connection with commercial fishing and
19 other marine-related industries;

20 D. Property used in connection with agricultural
21 production, storage, processing, packing and transportation;

22 E. Warehouses, transportation and distribution facilities;

23 F. Service and repair facilities;

24 G. Retail establishments; and

25 H. Lodging, restaurant and entertainment facilities.

26 5. Community industrial building. "Community industrial
27 building" means a building of flexible design and suitable for
28 commercial use, for which the construction or carrying costs or
29 both are financed through this subchapter for the purpose of
30 creating new jobs in a municipality resulting from the sale or
31 lease of the building.

32 6. Department. "Department" means the Department of
33 Economic and Community Development.

34 7. Lease. "Lease" means a contract providing for the use
35 of a project or portions of a project for a term of years for a
36 designated or determinable rent. A lease may include an
37 installment sales contract.

38

2 8. Lessee. "Lessee" means a tenant under lease and may
3 include an installment purchaser.

4 9. Local development corporation. "Local development
5 corporation" means any nonprofit organization created by a
6 municipality that is incorporated under Title 13, chapter 81 or
7 that is incorporated under Title 13-B or otherwise chartered by
8 the State, which is designed to foster, encourage and assist the
9 settlement or resettlement of industrial, manufacturing, fishing,
10 agricultural, recreational and other business enterprises within
11 the State. A majority vote of the municipal officers is
12 sufficient to form a local development corporation,
13 notwithstanding Title 13, chapter 81. "Local development
14 corporation" also means any nonprofit organization that is
15 incorporated under Title 13, chapter 81 or that is incorporated
16 under Title 13-B or otherwise chartered by the State, and is
17 designed to foster, encourage and assist the settlement or
18 resettlement of industrial, manufacturing, fishing, agricultural,
19 recreational and other business enterprises within the State that
20 applies for financial assistance for a project under this
21 article, as long as that application is formally endorsed by a
22 vote of the governing body of the municipality in which the
23 project is to be located.

24 10. Municipality. "Municipality" means any county, city or
25 town in the State.

26 **§13120-C. Organization and responsibilities**

27 1. Administrative responsibilities. The authority is
28 responsible for the administration of the:

29 A. Community industrial building program, pursuant to
30 section 13120-N;

31 B. Commercial Facilities Development Program, established
32 under section 13120-P; and

33 C. Such other programs as the authority may by law be
34 authorized to administer.

35 2. Programs and policies. In implementing its powers,
36 duties, responsibilities and programs, the authority shall
37 consider the state economic development strategy and the policies
38 and activities of the department.

39 **§13120-D. Board of trustees; appointment; chair; employees**

40 1. Membership. The authority is governed by a board of
41 trustees comprised of 7 voting members as follows:

2 A. Five members appointed by the Governor and subject to
3 review by the joint standing committee of the Legislature
4 having jurisdiction over economic development matters and to
5 confirmation by the Senate; and

6 B. Two ex officio members:

8 (1) The Commissioner of Economic and Community
9 Development; and

10 (2) The Chief Executive Officer of the Finance
11 Authority of Maine.

12
13 **2. Terms of office.** Members appointed by the Governor are
14 appointed for 4-year terms except that, for initial appointments,
15 one member is appointed to a 2-year term, 2 members to 3-year
16 terms and 2 members to 4-year terms.

17
18 A member continues to hold office until a successor is appointed
19 and qualified, but the term of the successor is not altered from
20 the original expiration date of the holdover member's term.

21
22 **3. Limitation on terms; removal.** Except for the ex officio
23 members, a member of the authority may serve no more than 2 full
24 consecutive terms. Any member of the board may be removed by the
25 Governor for cause.

26
27 **4. Administration.** The board of trustees shall elect one
28 of its members as chair, one member as vice-chair, who shall
29 serve as secretary, one member as treasurer and such other
30 officers as the board of trustees may from time to time consider
31 necessary.

32
33 **5. Meetings; compensation.** All the powers of the authority
34 may be exercised by the board of trustees in lawful meeting and a
35 majority of the members is necessary for a quorum. Regular
36 meetings of the board of trustees may be established by bylaw and
37 no notice need be given to the members of the regular meeting.
38 Each member is compensated according to the provisions of chapter
39 379.

40
41 **6. Limitation of liability.** A member of the board of
42 trustees of the authority or an employee of the authority may not
43 be subject to any personal liability for having acted within the
44 course and scope of that person's membership or employment to
45 carry out any power or duty under this subchapter. The authority
46 shall indemnify any member of the authority, any member of any
47 board of the authority and any employee of the authority against
48 expenses actually and necessarily incurred by that person in
49 connection with the defense of any action or proceeding in which
50

2 that person is made a party by reason of past or present
association with the authority.

4 7. Employees. The authority may employ an executive
6 director and such other technical experts, agents and employees,
8 permanent and temporary, that it requires and may determine their
10 qualifications, duties and compensation. Permanent employees of
12 the authority are eligible to elect to participate in the Maine
State Retirement System, any state-deferred compensation plan or
any other plan or program adopted by the members to the extent
the members may determine. For required legal services, the
authority may employ or retain its own counsel and legal staff.

14 **§13120-E. Agreements; contracts**

16 The authority, the department and the Finance Authority of
18 Maine may enter into such agreements as the board of trustees
20 determines to be in the best interests of the State for the
22 authority to acquire, construct, maintain, operate and dispose of
24 any or all facilities funded from bonds issued under section
13120-I. Any agreements must set forth the terms and conditions
of the operation and be subject to all the terms and conditions
of any trust indenture and covenants relating to revenue bonds.

26 The authority may contract with the Federal Government or
28 its instrumentalities or agencies, this State or its agencies,
30 instrumentalities or municipalities, public bodies, private
corporations, community development corporations, partnerships,
associations and individuals to carry out the purposes of this
subchapter.

32 **§13120-F. Receive, use and invest funds**

34 The authority may receive and accept from any source
36 allocations, appropriations, loans, grants and contributions of
38 money or other things of value to be held, used or applied to
40 carry out this subchapter, subject to the conditions upon which
42 the loans, grants and contributions may be made, including, but
not limited to, appropriations, allocations, loans, grants or
gifts from any federal agency or governmental subdivision or the
State and its agencies.

44 The authority may invest funds received from any source for
46 carrying out this subchapter and expend interest and other
earnings on those funds as appropriate to implement this
subchapter, including use for program and administrative costs.

48 **§13120-G. Acquisition, use and disposition of property**

2 All real and personal property owned by and in the name of
3 the authority is property of the State and entitled to the
4 privileges and exemptions of property of the State, except
5 insofar as waived by the duly authorized contract or other
6 written instrument of the authority or by this subchapter. The
7 authority and the department shall agree upon and from time to
8 time review the preferred status of property held or controlled
9 by the authority and the department and necessary to either
10 body's performing its statutory duty and shall arrange to sell,
11 exchange, give or otherwise transfer title or possession of
12 various properties between the authority and the department
13 consistent with sound business management and as may serve the
14 best interest of the State in the opinion of the authority and
15 the department. The authority and the department may execute and
16 record a deed or lease to effectuate the transfer.

17 The authority may acquire, use and dispose of real and
18 personal property as follows.

19 **1. Purchase, improve, lease and sell.** Property may be
20 purchased, improved, leased and sold, in whole or in part, to
21 accomplish the development and redevelopment of commercial
22 facilities as directed by the authority in accordance with the
23 purposes of this subchapter. Revenues to the authority resulting
24 from the lease, sale or other use of property in which the
25 authority has an interest become operating revenues or assets of
26 the authority. The authority may contract for services as
27 necessary to accomplish this purpose.

28 **2. Authority for transfers of interest in land to**
29 **authority.** Notwithstanding any other provision of law, upon the
30 authority's request, on reasonable and fair terms and conditions
31 and without the necessity for advertisement, order of court or
32 action or formality other than the regular and formal action of
33 the authorities concerned, counties, municipalities, public
34 agencies or instrumentalities of the State, public service
35 corporations and special districts may lease, lend, grant or
36 convey to the authority real or personal property or rights in
37 that property that may be necessary or convenient for the
38 effectuation of the authorized purposes of the authority,
39 including real and personal property or rights in that property
40 already devoted to public use. As used in this subsection, the
41 term "public service corporation" includes a public utility as
42 defined in Title 35-A, section 102, subsection 13 and a
43 corporation as defined in Title 13-A.

44 Facilities financed, acquired, constructed, operated or
45 maintained under this subchapter, and land upon which the
46 facilities are located are subject to the environmental laws of

2 the State that are applicable to facilities owned or operated by
3 the private sector.

4 **§13120-H. Taxation and fees**

6 Notwithstanding any other provision of law, for the purposes
7 of this subchapter, transactions and property of the authority
8 must be treated as follows.

10 **1. Revenue obligation securities; exemption from taxation.**
11 Revenue obligation securities of the authority are issued for an
12 essential public and governmental purpose, are public instruments
13 and, together with interest and income, including the profit made
14 from their transfer or sale, are exempt from taxation within the
15 State.

16 **2. Conveyances, leases, mortgages, deeds of trust; trust**
17 **indentures; exemptions from taxation.** Conveyances by or to the
18 authority and leases, mortgages and deeds of trust or trust
19 indentures by or to the authority are exempt from all taxation by
20 the State or any of its political subdivisions, including, but
21 not limited to, any applicable license, excise or other taxes
22 imposed in respect of the privilege of engaging in any of the
23 activities in which the authority may engage.

24 **3. Property exemption from taxation and other assessments.**
25 Property acquired, held or transferred by the authority is exempt
26 from all taxes and from betterments and special assessments of
27 the city, town, county, State or any political subdivision of
28 State Government or county or local governments. The authority
29 may agree to make payments in lieu of taxes to the applicable
30 political subdivisions.

31 **§13120-I. Bonds**

32 **1. Authorization.** The authority may provide by resolution
33 for the issuance of bonds for the purpose of funding the
34 Community Industrial Buildings Fund, as established in section
35 13120-O, for the construction of proposed commercial facilities
36 and improvement of existing or acquired commercial facilities and
37 for the fulfillment of other undertakings that it may assume.
38 The bonds of the authority do not constitute a debt of the State
39 or of any agency or political subdivision of the State but are
40 payable solely from the revenue of the authority, and neither the
41 faith nor credit nor taxing power of the State or any political
42 subdivision of the State is pledged to payment of the bonds.
43 Notwithstanding any other provision of law, any bonds issued
44 pursuant to this subchapter are fully negotiable. If any member
45 of the board of trustees whose signature appears on the bond or
46 coupons ceases to be a member of the board of trustees before the
47 issuance of the bonds, the authority shall not be bound by the
48 terms of the bonds and shall not be liable for the payment of the
49 bonds or coupons thereon.

2 delivery of those bonds, that signature is valid and sufficient
3 for all purposes as if that member of the board of trustee had
4 remained a member of the board of trustees until delivery.

6 2. Resolution; prospective issues. The authority may, by
7 resolution authorizing prospective issues, provide:

8 A. The manner of executing bonds and coupons;

10 B. The form and denomination of bonds or coupons;

12 C. Maturity dates;

14 D. Interest rates on bonds or coupons;

16 E. For redemption prior to maturity and the premium payable;

18 F. The place or places for the payment of interest and
19 principal;

20 G. For registration if the authority determines it to be
21 desirable;

24 H. For the pledge of all or any of the revenue for securing
25 payment;

26 I. For the replacement of lost, destroyed or mutilated
27 bonds;

30 J. For the setting aside and the regulation and disposition
31 of reserve and sinking funds;

32 K. For limitation on the issuance of additional bonds;

34 L. For the procedure, if any, by which the contract with a
35 bondholder may be abrogated or amended;

38 M. For the manner of sale and purchase of bonds;

40 N. For covenants against pledging of any of the revenue of
41 the authority;

42 O. For covenants fixing and establishing rates and charges
43 for use of the authority's facilities and services made
44 available so as to provide funds that will be sufficient to
45 pay all costs of operation and maintenance, to meet and pay
46 the principal and interest of all bonds as they severally
47 become due and payable, for the creating of such revenues
48 for the principal and interest of all bonds and for the

2 meeting of contingencies and the operation and maintenance
3 of its facilities as the board of trustees determines;

4 P. For such other covenants as to rates and charges as the
5 board of trustees determines;

6 Q. For covenants as to the rights, liability, powers and
7 duties arising upon the breach by the authority of any
8 covenant, condition or obligation;

9 R. For covenants as to the bonds to be issued, as to the
10 issuance of those bonds in escrow and otherwise and as to
11 the use and disposition of the proceeds;

12 S. For covenants as to the use of its facilities and their
13 maintenance and replacement, and the insurance to be carried
14 on them, and the use and disposition of insurance money;

15 T. For the issuance of bonds in series;

16 U. For the performance of any and all acts as may be in the
17 discretion of the board of trustees necessary, convenient or
18 desirable to secure bonds or that tend to make bonds more
19 marketable; and

20 V. For the issuance of bonds on terms and conditions to
21 effectuate the purpose of this subchapter.

22 **3. Money received.** All money received from any bonds
23 issued must be applied solely for loans to municipalities or
24 local development corporations for community industrial
25 buildings, for the construction of proposed commercial facilities
26 and improvement of existing or acquired commercial facilities and
27 for the fulfillment of other undertakings that are within the
28 power of the authority. There is created a lien upon the money
29 until so applied in favor of the bondholders or any member of the
30 board of trustees as may be provided in respect of the bonds.

31 **4. Trust indenture.** In the discretion of the board of
32 trustees, bonds may be secured by a trust indenture by and
33 between the authority and a corporate trustee, which may be any
34 trust company or bank having the powers of a trust company,
35 located either within or outside the State. Such a trust
36 indenture may pledge or assign the revenues of the authority or
37 any part of it. Any trust indenture may set forth the rights and
38 remedies of the bondholders and the trustee, restrict the
39 individual right of action of bondholders and contain such other
40 provisions as the board of trustees may consider reasonable and
41 proper for the security of bondholders. Expenses incurred in
42 carrying out any trust indenture may be treated as a part of
43 maintenance.

2 5. Rights of bondholders. Provisions may be made for
3 protecting and enforcing the rights and remedies of bondholders,
4 including covenants as to acquisition of property, construction,
5 maintenance, operation and repair, insurance and the custody,
6 security and application of all money.

8 6. Depositories. Any trust company or bank having the
9 powers of a trust company and located either within or outside
10 the State may act as a depository of the proceeds of bonds and
11 revenue and may furnish such indemnity or pledge such securities
12 as may be required by the authority.

14 7. Tax free. The purposes of this subchapter being public
15 and for the benefit of the people of the State, bonds of the
16 authority are free from taxation by the State.

18 8. Revenue refunding bonds. The authority may issue
19 revenue refunding bonds for the purpose of refunding revenue
20 bonds issued under this subchapter. The issuance of any
21 refundng bonds is the same as provided for in this subchapter
22 relating to revenue bonds.

24 9. Default. In the event of default on bonds and in the
25 event the default continues for a period of 3 months, action may
26 be brought to enforce the rights of the bondholders by insuring
27 that the operation by the trustees be in conformity with the
28 covenants of the bonds or trust indenture.

30 §13120-J. Interest of trustee or employee

32 1. Acquisition of interest. A member of the board of
33 trustees or employee of the authority may not acquire or hold a
34 direct or an indirect financial or personal interest in:

36 A. An authority activity;

38 B. Property or facilities included, planned to be included
39 or expected to directly benefit from an authority activity;
40 or

42 C. A contract or proposed contract in connection with an
43 authority activity.

44 When an acquisition is involuntary, the interest acquired must be
45 disclosed immediately in writing to the board of trustees and the
46 disclosure must be entered in the board of trustees' minutes.

48 2. Present or past interest in property. If a member of
49 the board of trustees or employee of the authority presently owns

2 or controls, or owned or controlled within the preceding 2 years,
3 a direct or an indirect interest in property known to be included
4 or planned to be included in an authority activity, that member
5 or employee shall disclose this fact immediately in writing to
6 the board of trustees and the disclosure must be entered in the
7 board of trustees' minutes.

8 3. Recusal. A member of the board of trustees or employee
9 of the authority with an interest under subsection 2 may not
10 participate in an action by the authority affecting that property.

11 4. Violation. A violation of this section is a Class E
12 crime.

13 **§13120-K. Annual report; audit**

14
15
16 1. Report. The authority shall submit to the Governor, the
17 President of the Senate, the Speaker of the House of
18 Representatives and the joint standing committee of the
19 Legislature having jurisdiction over economic development
20 matters, not later than 120 days after the close of its fiscal
21 year, a complete report on the activities of the authority. The
22 report may also be provided to any other member of the
23 Legislature and to any other person. The report must include all
24 of the following:

25
26
27 A. A description of the authority's operations, including a
28 description of projects assisted under this subchapter and
29 the criteria used in selecting those projects;

30
31 B. An accounting of the authority's receipts and
32 expenditures, assets and liabilities at the end of its
33 fiscal year;

34
35 C. A schedule of the bonds and notes outstanding at the end
36 of the authority's fiscal year and a statement of the
37 amounts redeemed and issued during its fiscal year,
38 including a report on its reserve funds;

39
40 D. A statement of the authority's proposed and projected
41 activities for the ensuing year, the relationship of these
42 activities to the State's economic development policies and
43 the selection criteria expected to be used;

44
45 E. Recommendations as to further actions that may be
46 suitable for achieving the purposes of this subchapter;

47
48 F. A statement of the defaults, if any, of persons, firms,
49 corporations and other organizations receiving assistance
50 under this subchapter; and

2 G. A summary of the actual and potential employment
3 opportunities resulting from the authority's activities.

4 2. Treasurer of State; annual financial report. The
5 authority shall provide the Treasurer of State, within 120 days
6 after the close of its fiscal year, its annual financial report
7 certified by an independent certified public accountant, who may
8 be the accountant or a member of the firm of accountants who
9 regularly audits the books and accounts of the authority,
10 selected by the authority. The authority is also subject to the
11 provisions of chapter 11. The authority may combine for
12 accounting purposes any or all funds established for its programs
13 and activities.

14 **§13120-L. Rules**

15 Pursuant to chapter 375, the authority may adopt any rule,
16 including its bylaws, necessary or useful for carrying out any of
17 its powers or duties. Rules adopted pursuant to this section are
18 routine technical rules as defined in chapter 375, subchapter
19 II-A.

20 **§13120-M. Disclosure and confidentiality of records**

21 1. Disclosure required. Notwithstanding subsections 2 and
22 3, the following must be made available to any person upon
23 request reasonably describing the records to which access is
24 sought or, if no request is made, in any manner and at any time
25 that the authority may determine:

26 A. After filing of a written application or proposal for
27 financial assistance, investment or property transfer, in a
28 form specified by or acceptable to the authority:

29 (1) Names of recipients of or applicants for financial
30 assistance or investment, including principals, where
31 applicable;

32 (2) Amounts, types and general terms of financial
33 assistance or investment provided to those recipients
34 or requested by those applicants;

35 (3) Descriptions of projects and businesses that are
36 benefiting or that will benefit from the financial
37 assistance or investment;

38 (4) Names of transferors or transferees, including
39 principals, of property to or from the authority, the
40 general terms of transfer and the purposes for which
41 transferred property will be used;

2 (5) The number of jobs and the amount of tax revenues
4 projected or resulting in connection with a project; and

6 (6) Names of financial institutions participating in
8 providing financial assistance or investment and the
 general terms of that financial assistance or
 investment;

10 B. Any information pursuant to waiver considered
12 satisfactory by the authority;

14 C. Information that, as determined by the authority, has
 already been made available to the public; and

16 D. Information necessary to comply with Title 1, section
18 407, subsection 1.

20 Information or records specified in a written request signed by
22 the cochairs of a legislative committee must be provided to the
24 legislative committee. The information or records may be used
 only for the lawful purposes of the committee and in any action
 arising out of any investigation conducted by it.

26 2. Confidential information. The following records are
 designated as confidential for purposes of Title 1, section 402,
 subsection 3, paragraph A:

28 A. A record obtained or developed by the authority in
30 advance of the receipt of a formal written application or
32 proposal, in a form specified by or acceptable to the
34 authority, for financial assistance or investment to be
36 provided by or with the assistance of the authority or in
38 connection with a transfer of property to or from the
 authority. After receipt by the authority of the
 application or proposal, a record pertaining to the
 application or proposal is not confidential unless it meets
 the requirements of paragraphs B to G;

40 B. A record obtained or developed by the authority that
42 fulfills the following requirements:

44 (1) A person, including the authority, to whom the
 record belongs or pertains has requested that the
46 record be designated confidential; and

48 (2) The authority has determined that the record
 contains proprietary information or commercial or
50 financial information, the release of which could be
 competitively harmful to the submitter of the

2 information or that would result in loss of business or
3 other significant detriment to any person, including
4 the authority, to whom the record belongs or pertains;

5
6 C. A financial statement or tax return of an individual or
7 any other record obtained or developed by the authority, the
8 disclosure of which would constitute an invasion of personal
9 privacy, as determined by the authority;

10 D. A record that includes a financial statement or tax
11 return obtained or developed by the authority in connection
12 with any monitoring or servicing activity by the authority,
13 pertaining to any financial assistance or investment
14 provided or to be provided by or with the assistance of the
15 authority;

16
17 E. A record obtained or developed by the authority that
18 contains an assessment by a person who is not employed by
19 the authority of the credit worthiness or financial
20 condition of any person or project;

21
22 F. A financial statement or business and marketing plan in
23 connection with any project receiving or to receive
24 financial assistance or investment from the authority, if a
25 person to whom the statement or plan belongs or pertains has
26 requested that the record be designated confidential; and

27
28 G. A record that includes any financial statement, business
29 plan or tax return obtained or developed by the authority in
30 connection with the marketing of its property and the
31 identification and qualification of potential investors.

32
33 For purposes of this section, an application by a potential
34 investor is not an application for financial assistance or
35 solicitation of investment.

36
37 **3. Wrongful disclosure prohibited.** A member of the board
38 of trustees, officer, employee, agent, other representative of
39 the authority or other person may not knowingly divulge or
40 disclose records declared confidential by this section, except
41 that the authority may, in its discretion, make or authorize any
42 disclosure of information of the following types:

43
44 A. Impersonal, statistical or general information;

45
46 B. Information necessary in connection with processing an
47 application for obtaining or maintaining an investment or
48 financial assistance for a person or in connection with
49 acquiring, maintaining or disposing of property;

50

2 C. Information disclosed to a financial institution or
credit reporting service;

4 D. Information necessary to comply with a federal or state
law or rule or with an agreement pertaining to financial
6 assistance or investment;

8 E. Information to the extent the authority determines the
disclosure necessary to the sale or transfer of revenue
10 obligation securities;

12 F. Information necessary to ensure collection of an
obligation in which the authority has or may have an
14 interest;

16 G. Information obtained from records declared confidential
by this section for introduction for the record in
18 litigation or a proceeding in which the board has appeared;
or

20 H. Information pursuant to a subpoena, request for
22 production of documents, warrant or other order by competent
authority, as long as the order appears to have first been
24 served on the person to whom the confidential information
sought pertains or belongs and as long as the order appears
26 on its face or otherwise to have been issued or made upon
lawful authority.

28 4. Records on effective date. Whether a record in the
30 possession of the authority on the effective date of this section
is confidential must be determined pursuant to this section and
32 not pursuant to the law in effect when the authority or any of
its predecessors obtained the record and the record may be
34 disclosed or divulged to the extent required or permitted by this
section.

36 **§13120-N. Community industrial building program**

38 The authority may assist a municipality or local development
40 corporation to construct a community industrial building by
loaning the municipality or local development corporation money
42 for construction or carrying costs or both for the project,
subject to the following.

44 1. Project. The following conditions apply to a project
46 receiving money under this section.

48 A. The project must be within the scope of this subchapter,
must be of public use and benefit and must reasonably be
50 expected to accomplish one or more of the following:

- 2 (1) Create new employment opportunities;
- 4 (2) Retain or improve existing employment; or
- 6 (3) Improve the competitiveness of the occupant
8 business.

10 B. Not more than one unoccupied community industrial
12 building project may be financed in a municipality.

14 C. The authority shall charge interest on loans or funds
16 provided under this section and section 13120-0 to the
18 municipality or local development corporation for a
20 community industrial building that remains unoccupied for 3
22 or more years following completion of the building.

24 D. The authority shall adopt rules under the chapter 375
26 with respect to:

28 (1) The methodology and criteria for allocating funds
30 to community industrial building projects;

32 (2) The process through which municipalities and local
34 development corporations must apply for community
36 industrial building funds;

38 (3) Rates of interest, the duration of interest
40 payments and any other terms to which municipalities
42 and local development corporations must be subject
44 under this paragraph; and

46 (4) Other matters necessary to the proper
48 administration of this section and section 13120-0.

50 Rules adopted under this paragraph are major substantive
52 rules pursuant to chapter 375, subchapter II-A and are
54 subject to review by the joint standing committee of the
56 Legislature having jurisdiction over economic development
58 matters.

60 2. Obligations. The municipality or local development
62 corporation receiving money under this section must:

64 A. Own, or hold on long-term lease, the site for the
66 project;

68 B. Be responsible for and present evidence to the authority
70 of its ability to carry out the project as planned;

2 C. Site and maintain the community industrial building on
3 property that is appropriate to the size and location of the
4 community industrial building;

6 D. Provide and maintain, with funds other than those
7 provided by the authority, an adequate access road from a
8 public highway to the proposed site and provide and maintain
9 water, sewer and power facilities. The municipality or
10 local development corporation must be responsible for
11 plowing out the plant site at all times and for landscaping
12 the grounds surrounding the building until the building is
13 occupied by a tenant;

14 E. Comply with applicable zoning, planning and sanitary
15 regulations in the municipality where the community
16 industrial building is to be located. A loan may not be
17 approved and a certificate of approval for the project or
18 for any subsequent enlargement or addition to the project
19 may not be issued until the Department of Environmental
20 Protection has certified to the authority that all licenses
21 required by the authority have been issued or that none are
22 required; and

24 F. Make adequate provisions for insurance and fire
25 protection and for maintenance of the community industrial
26 building while it is unoccupied.

28 3. Loan terms. Terms for a loan under this section are as
29 follows.

30 A. The authority shall prescribe the terms and conditions
31 of the loan.

34 B. Loans must be repaid in full, including interest and
35 other charges, within 90 days after the community industrial
36 is occupied.

38 C. A community industrial building financed by an authority
39 loan may not be sold or leased without the express approval
40 of the purchaser or lessee by the authority. If the
41 municipality or local development corporation and the
42 authority agree that a community industrial building is
43 unlikely to be sold in the near future despite a marketing
44 effort, the authority may permit an interim lease upon terms
45 it considers appropriate for the protection of the Community
46 Industrial Buildings Fund established in section 13120-0.
47 Occupation of the premises under an interim lease does not
48 require payment in full of the entire loan within 90 days,
49 as provided in paragraph B.

2 4. Marketing and promotion. The municipality or local
4 development corporation receiving money under this section shall
6 make a reasonable and continual effort to market the community
8 industrial building for sale into private commercial use. Upon
the request of the authority, the municipality or local
development corporation shall present evidence of its marketing
efforts and expenditures related to the community industrial
building.

10 5. Taxes. While a community industrial building under this
12 section remains unoccupied and a first mortgage is held by the
14 authority, it is property held for a legitimate public use and
benefit and is exempt from all taxes and special assessments of
the State or any of its political subdivisions.

16 6. Municipality. A municipality may raise or appropriate
18 money supporting and guaranteeing the obligation of a chamber of
20 commerce, board of trade or local development corporation for the
purpose of constructing a community industrial building subject
to the provisions of this subchapter.

22 **§13120-O. Community Industrial Buildings Fund**

24 1. Fund established. The Community Industrial Buildings
26 Fund, referred to in this section as the "fund," is established
28 as a revolving fund to be used by the authority only for the
purposes of this section and section 13120-N.

30 2. Items charged or credited. Operating expenses of the
32 authority incurred under this section and section 13120-N must be
34 charged to the fund and all payments required by this section and
36 section 13120-N must be credited to the fund. Expenses of the
authority that arise out of assistance to municipalities and
local development corporations under this section and section
13120-N may be charged against the proceeds of the sale or lease
of community industrial buildings constructed under this section
and section 13120-N.

38 3. Deposited funds. Money in the fund not currently needed
40 to meet the obligations of the department under this section and
42 section 13120-N must be deposited with the Treasurer of State to
44 the credit of the fund with all interest earned by the deposit
credited to the fund.

46 4. Successor to fund. The authority is the successor to
48 the department for the purposes of this section and section
50 13120-N. All properties, rights in land, buildings and equipment
and any funds, money, revenues and receipts or assets of the
department as they apply to the Community Industrial Buildings
Fund, including funds previously appropriated by the State for

2 the Community Industrial Buildings Fund under former section
4 13082, belong to the authority as successor to the department.
6 All liabilities of the department with respect to the Community
8 Industrial Buildings Fund under former section 13082 become
liabilities of the authority. Any action taken by the department
with respect to assisting a municipality or local development
corporation to create community industrial buildings is an action
taken by the authority.

10 **§13120-P. Commercial Facilities Development Program**

12 **1. Establishment; purpose.** The Commercial Facilities
14 Development Program is established within the authority to serve
the following purposes:

16 A. Restore employment opportunities by serving as
18 principal, partner or investor in the acquisition and
20 redevelopment of nonproductive commercial facilities for
subsequent return to productive use through sale or lease;
and

22 B. Create employment opportunities in areas of economic
24 need that are underserved by private investors by serving as
26 principal, partner or investor in the acquisition of
property and development of commercial facilities for
subsequent sale or lease into private productive use.

28 In carrying out its duties under this section, the authority
30 shall make all reasonable and appropriate efforts to maximize the
32 leverage of its funds through partnership and risk-sharing
arrangements with public and private organizations.

34 **2. Redevelopment of property.** Except as provided in
36 section 13120-O, the authority may acquire interests in and
undertake the redevelopment of property for subsequent use and
sale under the following conditions:

38 A. The property has been previously and materially used as
40 a commercial facility;

42 B. The property is currently not in productive commercial
44 use or is expected to be taken out of productive commercial
use within the immediate future;

46 C. The property has not been placed under a purchase option
or contract;

48 D. The authority, using due diligence, has determined that:

2 (1) There is a reasonable expectation that the
3 property will become financially viable following its
4 redevelopment; and

5 (2) The economic benefits, including the restoration
6 of employment opportunities, expected to result from
7 the redevelopment justify the risks associated with the
8 authority's equity interest in the property;

9 E. At least 25% of the total cost to acquire, redevelop and
10 return the property to productive commercial use will be
11 borne by the municipality or local development corporation.

12 3. Development of property. Except as provided in section
13 13120-Q, the authority may acquire interests in and undertake the
14 development of property for subsequent use and sale under the
15 following conditions:

16 A. The property consists of real estate that is zoned,
17 sited or otherwise suitable for development as a commercial
18 facility;

19 B. The property is currently not in productive commercial
20 use;

21 C. The property has not been placed under a purchase option
22 or contract;

23 D. The authority, using due diligence, has determined that:

24 (1) There is a reasonable expectation that the
25 property will become financially viable following its
26 development;

27 (2) The development of the property will create
28 employment opportunities and other economic benefits
29 within the region; and

30 (3) The economic benefits expected to result from the
31 development justify the risks associated with the
32 authority's equity interest in the property; and

33 E. At least 25% of the total cost to acquire, develop and
34 bring the property to productive commercial use will be
35 borne by the municipality or local development corporation.

36 §13120-Q. Exceptions

37 The authority, with the advice of the department, the
38 Department of Labor, the State Planning Office and such other

2 agencies it determines appropriate, may waive the requirements of
3 section 13120-P, subsection 2, paragraph E and section 13120-P,
4 subsection 3, paragraph E under the following conditions:

6 1. Sudden and severe economic dislocation. The property is
7 located in a municipality that has experienced a sudden and
8 severe economic dislocation, which may include but is not limited
9 to:

10 A. The loss of a significant percentage of jobs within the
11 municipality due to the closure or downsizing of a business
12 or other employer;

14 B. The loss of a significant percentage of the
15 municipality's tax base due to the closure or downsizing of
16 a business or other commercial taxpayer; or

18 C. The unanticipated loss of a significant percentage or
19 component of a municipality's economic development
20 infrastructure as a result of an accident, natural disaster
21 or other catastrophe; or

22 2. Chronic and severe economic distress. The property is
23 located in a municipality that has experienced long-term economic
24 distress, as evidenced by factors that may include, but are not
25 limited to:

28 A. An unemployment rate that is significantly greater than
29 the average State unemployment rate;

30 B. The significant migration of workers or population out
31 of the area; and

34 C. An average personal income that is significantly below
35 the state average or considered to be at or below the
36 poverty level as defined in Title 22, section 5321; and

38 3. Private capital not available. The municipality has
39 experienced a historical lack of private investment and it is
40 reasonably expected that private investment will not be available
41 to assist with project financing.

42 Sec. 7. 13-B MRSA §201, sub-§3, ¶F, as amended by PL 1993, c.
43 316, §30, is further amended to read:

46 F. Local development corporations,--as-that-term-is-used-in
47 Title-5,-section-13081,-subsection-6; and
48

FISCAL NOTE

2

4 This bill establishes the Maine Rural Development Authority
6 as a quasi-independent agency providing loans for the development
8 of commercial facilities and serving as lead investor in the
10 acquisition, development, redevelopment and sale of commercial
12 facilities in areas where economic needs have not been met.

14 The Maine Rural Development Authority will incur some
16 administrative costs to adopt rules, pay the expenses of the
18 board members and prepare the required reports. Since there are
20 currently no funds appropriated or allocated to the Maine Rural
22 Development Authority for administrative and operating expenses,
24 the ability of the authority to carry out these requirements can
26 not be determined at this time.

28 This bill authorizes the Maine Rural Development Authority
30 to receive and accept funding from allocations, appropriations,
32 loans, grants and contributions from other sources. This bill
34 specifies that the authority may invest funds received and expend
36 interest and other earnings as appropriate for program and
38 administrative costs. The amount of revenue from these funding
40 sources can not be determined at this time.

42 This bill specifies that all money received from any bonds
44 issued must be applied solely for loans to municipalities or
46 local development corporations for the construction or
improvement of commercial facilities and for the fulfillment of
other undertakings within the power of the authority.

There are 3 separate bond proposals for the Maine Rural
Development Authority that are currently under consideration in
the Second Regular Session of the 120th Legislature. L.D. 2130,
"An Act to Authorize a General Fund Bond Issue in the Amount of
\$31,150,000 to Stimulate Job Growth in Rural Maine" includes a
General Fund bond proposal of \$15,000,000 to capitalize the Maine
Rural Development Authority. L.D. 2190, "An Act to Authorize a
General Fund Bond Issue in the Amount of \$25,400,000 for Economic
Development" includes a General Fund bond proposal for \$5,000,000
to seed the Maine Rural Development Authority. L.D. 2191, "An
Act to Authorize a General Fund Bond Issue in the Amount of
\$29,400,000 for Economic Development" also includes a General
Fund bond proposal for \$5,000,000 to seed the Maine Rural
Development Authority. These bond issues, if approved by the
Legislature, are contingent upon approval of the voters in
November 2002.

48 This bill transfers the administration of the community
50 industrial building program and the Community Industrial
Buildings Fund from the Department of Economic and Community

2 Development to the Maine Rural Development Authority. The fund
is a revolving fund used to support the community industrial
4 building program, which assists a municipality or local
development corporation to construct community industrial
buildings through loans for construction or carrying costs.

6
8 This bill also establishes the Commercial Facilities
Development Program to create and restore employment
opportunities by serving as a principal, partner or investor in
10 the acquisition and development or redevelopment of commercial
properties for private productive uses.

12
14 This bill may increase prosecutions for Class E crimes. If
a jail sentence is imposed, the additional costs to the counties
are estimated to be \$83.36 per day per prisoner. The number of
16 prosecutions that may result in a jail sentence and the resulting
costs to the county jail system are expected to be insignificant.

18
20 The Finance Authority of Maine and the Department of
Economic and Community Development will incur some minor
additional costs to serve on the board. These costs can be
22 absorbed within each agency's existing budgeted resources.

24 The additional costs associated with advising the Maine
Rural Development Authority can be absorbed by the Department of
26 Labor, the Department of Economic and Community Development and
the State Planning Office utilizing existing budgeted resources.

30 SUMMARY

32 This bill establishes the Maine Rural Development Authority
as a quasi-governmental agency with the purpose of providing
34 loans to communities for the construction of commercial
facilities and leading the development or redevelopment of
36 commercial facilities in areas where economic need has not been
met by private investment.

38
40 The authority assumes the administration of the community
industrial building program currently administered by the
Department of Economic and Community Development and the
42 authority's operations are dependent upon funding.